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Utility Patent
Ser. No 10/033,862

REMARKS

Claims 1-4, 20, 33, 70-72, 75, 77-78, 82-85 and 91-95 were pending at a mailing of the Non-Final Office Action sent March 5, 2008. Claims 1-3, 20, 72, 78 and 95 are Currently Amended. No new matter is included.

Election/Restriction Requirement

Examiner requires Applicant elect a single disclosed species under 35 U.S.C. § 121 for prosecution on the merits. Applicant believes that Examiner intended to require a restriction between Groups:

- Group I: Independent Claim 1 and Dependent Claims 2-4, 20, 33, 70 and 92-94;
- Group II: Independent Claim 71 and Dependent Claim 72;
- Group III: Independent Claim 75 and Dependent Claims 77 and 78;
- Group IV: Independent Claim 82 and Dependent Claims 83-85 and 95; and,
- Group V: Independent Claim 91.

Two or more separately usable subcombinations are usually restrictable when they do not overlap in scope and they are not obvious variants. MPEP §806.05(d).

Applicant contends that a restriction between Independent Claims 1, 71, 75, 82 and 91 is not proper because the subcombinations overlap in scope. This is evidenced most in the following mapping of claims which compares their limitations.

	1	71	75	82	91
a (bonded) highloft, nonwoven toplayer	x	x	x	x	x
the nonwoven being as a (an open porc) matrix or a web of (synthetic) fibers or filaments	x	x	x		x
pad comprising an impervious bottom layer	x	x	x	x	x
a cling enhancing substance applied to/within matrix of fibers		x	x	x	x
nonwoven is treated with solid, dry particulate			x		

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cling enhancing substance clings to dry particulates				x	
superabsorbent polymer affixed to cling agent					x

Examiner can insist a restriction is necessary only if there are reasons to support such. MPEP § 808.02. Applicant contends that there is no serious search burden placed on Examiner if restriction is not required because there is no separate classification, status or field of search for the inventions in Groups I-V. There is very little to no substantive difference between a nonwoven treated with dry particulate, cling enhancing substances (on a nonwoven) clinging to dry particulates and/or superabsorbent polymers affixed to the cling agent.

Applicant elects a prosecution of Group I with traverse, for claims 1-4, 20, 33, 70 and 92-94.

A withdrawal of the restriction requirement is respectfully requested.

Respectfully submitted,


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